STATE OF MICHIGAN

COURT OF APPEALS

In re HAMPTON/POLLY, Minors.

UNPUBLISHED
December 2, 2014

No. 321398
Jackson Circuit Court
Family Division
LC No. 12-001977-NA

Before: K. F. KELLY, P.J., and SAWYER and METER, JJ.

PER CURIAM.

Respondent mother appeals as of right the April 10, 2014 order terminating her parental rights to the minor children, AH and AP, under MCL 712A.19b(3)(c)(*i*) (conditions of adjudication continue to exist), (c)(*ii*) (other conditions exist that could have caused the children to come within the court's jurisdiction and they have not been rectified), (g) (failure to provide proper care and custody), and (j) (reasonable likelihood of harm if children are returned to parent). We affirm.

Respondent first argues that the trial court improperly found statutory grounds to terminate her parental rights to the minor children. "In order to terminate parental rights, the trial court must find by clear and convincing evidence that at least one of the statutory grounds for termination in MCL 712A.19b(3) has been met." *In re VanDalen*, 293 Mich App 120, 139; 809 NW2d 412 (2011). "We review the trial court's determination for clear error." *Id*.

The trial court properly terminated respondent's parental rights pursuant to MCL 712A.19b(3)(g). MCL 712A.19b(3)(g) provides that termination is proper where "[t]he parent, without regard to intent, fails to provide proper care or custody for the child[ren] and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the child[ren]'s age[s]." This Court has previously held that termination under MCL 712A.19b(3)(g) was appropriate where the record established that the respondent "only minimally complied" with portions of the parent-agency agreement. *In re BZ*, 264 Mich App 286, 300; 690 NW2d 505 (2004).

Here, respondent was unable to provide proper care in July 2012 because she had medically neglected the children and had left them in the care of a woman who had a history of drug use and who had potentially caused the death of DP, the children's younger sibling. In relevant part, the parent-agency agreement required respondent to participate in a parenting class, attend individual counseling, complete a psychological evaluation and a substance abuse assessment, submit to random weekly drug screenings, and obtain and maintain stable housing

and income. The record does not support that respondent submitted to the substance abuse assessment or that she submitted to any random screenings during the proceeding. It took her nearly six months to complete the psychological evaluation. Respondent was referred to therapy at "Lifeways," but whether she attended was unknown because she either failed to execute a release or rescinded it after executing it. The record supports that respondent attended 14 therapy sessions with Sarah Hazlett between September 16, 2013, and April 8, 2014. Respondent did not begin attending anger management until seven days before the termination hearing. She completed an eight-week parenting class one year after being referred to it, but she failed to provide the certificate of completion to the caseworker. Respondent did not have stable employment at the time of termination, and whether she had acquired stable housing is unclear from the record. Further, contrary to respondent's argument on appeal that she maintained a strong bond with the children by consistently having positive interactions with them, the record establishes respondent's parenting time was suspended in December 2013 as a result of her failure to comply with the service plan and her poor behavior during hearings. *In re BZ*, 264 Mich App at 300. Respondent was unable to provide proper care and custody at the time of termination. See MCL 712A.19b(3)(g).

Further, the record does not support that respondent would have been "able to provide proper care and custody within a reasonable time considering" the children's ages. See MCL 712A.19b(3)(g). Contrary to respondent's arguments on appeal that termination was premature, the record establishes that respondent failed to complete a majority of the services during the lengthy proceeding. Even if respondent fully complied with treatment, it would take two or more years of intensive therapy before she would be able to reunite with the children. At the time of termination, AH was 4-1/2 years old and AP was three years old. They had been in care for 21 months and required permanency. The trial court's finding that termination of respondent's parental rights was proper pursuant to MCL 712A.19b(3)(g) does not leave us with a definite and firm conviction that a mistake has been made. *In re HRC*, 286 Mich App 444, 459; 781 NW2d 105 (2009). Because we have concluded that at least one ground for termination existed, we need not specifically consider the additional grounds upon which the trial court based its decision. *Id.* at 461.

Respondent next argues that the trial court clearly erred when making its best-interests determination. "Once a statutory ground for termination has been proven, the trial court must find that termination is in the child[ren]'s best interests before it can terminate parental rights." *In re Olive/Metts*, 297 Mich App 35, 40; 823 NW2d 144 (2012). We review a trial court's finding that termination is in the children's best interests for clear error. *In re HRC*, 286 Mich App at 459. "In deciding whether termination is in the child[ren]'s best interests, the court may consider the child[ren]'s bond to the parent, the parent's parenting ability, the child[ren]'s need for permanency, stability, and finality, and the advantages of a foster home over the parent's home." *In re Olive/Metts*, 297 Mich App at 41-42 (internal citations omitted).

Here, AH was removed from respondent's care when he was over 2-1/2 years old, and AP was removed when he was 15 months old. Respondent was "hard" on the children, and she told them to "shut up" at times during supervised parenting time. Respondent also raised her voice at times and threatened to leave parenting time early as a means of getting the children to comply with her directions; this caused the children to be fearful, uncomfortable, and tearful. Respondent's personality disorder made it difficult for her to put the needs of the children before

her own. At times during the proceeding, the children "gravitate[d]" to the maternal grandmother "as being their primary caregiver" even when respondent was present. Because respondent's parenting time was suspended in December 2013, the children had not seen her for at least 3-1/2 months at the time of termination. To the extent that a bond existed between respondent and the children at the time of termination, it was not healthy for the children. *Id.* Further, given that respondent had difficulty putting the children's needs ahead of her own, had issues with anger management, and was likely to engage in unstable relationships, the record does not support that the children would be safe in her care. See *In re VanDalen*, 293 Mich App at 141.

Although respondent argues on appeal that she should have been provided additional time to complete services, when deciding best interests, this Court has to look at the best interests of the children, including their need for stability. See *In re Trejo Minors*, 462 Mich 341, 364; 612 NW2d 407 (2000). Further, contrary to respondent's argument on appeal that she had made substantial progress, the record supports that respondent failed to comply with a majority of the case service plan and that she required at least two years of additional treatment before reunification could be considered. Even though the parental rights of the children's fathers had not been terminated at the time the trial court terminated respondent's parental rights, the record supports that the children required closure in the proceeding regarding respondent. At the time of termination, the children were both under the age of five years old, had already been in care for 21 months, and required stability and permanence. See *In re Olive/Metts*, 297 Mich App at 41-42. Respondent was entirely unable to provide that to them at the time of termination or within a reasonable time in the future. At the time of termination, the children were doing well in their foster home; they were developing appropriately and their oppositional behaviors had decreased. The trial court did not clearly err in finding that termination of respondent's parental rights was in the children's best interests. *In re HRC*, 286 Mich App at 459.

Affirmed.

/s/ Kirsten Frank Kelly
/s/ David H. Sawyer
/s/ Patrick M. Meter